

# FLORIDA HIGHWAY PATROL

## POLICY MANUAL



**SUBJECT**  
**ARRESTS**

**POLICY NUMBER**  
**11.01**

**ISSUE DATE**  
**02/01/96**

**APPLICABLE CALEA STANDARDS**  
**1.2.2, 1.2.4, 1.2.5, 1.2.6**

**REVISION DATE**  
**07/01/07**

**TOTAL PAGES**  
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### **11.01.01 PURPOSE**

To provide the proper procedures for members of the Florida Highway Patrol to use when affecting an arrest.

### **11.01.02 AUTHORITY**

Members of the Florida Highway Patrol are granted authority to make arrests and deliver those arrested to the sheriff of the county by provisions set forth in Section 321.05, and Chapters 901 and 943, Florida Statutes.

### **11.01.03 POLICY**

It is the policy of the Florida Highway Patrol to comply with the provisions of law concerning the duties, functions and powers of members of the Florida Highway Patrol and to outline arrest procedures.

### **11.01.04 OBJECTIVES**

To ensure that all members of the Florida Highway Patrol are familiar with the processes of affecting an arrest.

### **11.01.05 PROCEDURES**

Members of the Florida Highway Patrol are charged with the responsibility to preserve the peace, protect the safety of citizens and their property and to enforce the traffic and criminal laws of the State of Florida. At times, these responsibilities are accomplished by the active enforcement efforts of members through the arrest and incarceration of individuals violating these laws.

- A. Members may arrest a person without a warrant when:
  - 1. The person committed a criminal offense in the presence of the member. If the member is arresting a person for the commission of a misdemeanor, county or local ordinance (as authorized in the ordinance), the arrest must be made immediately or in fresh pursuit.

2. A felony has been committed or is being committed, and the member reasonably believes that a specific person has committed, or is committing the offense.
  3. A violation of Chapters 316 or 322, Florida Statutes, has been committed in the presence of the member. This arrest must be made immediately or in fresh pursuit, or when a member, based on an investigation of a traffic crash, has probable cause to believe that a violation has occurred.
  4. There is probable cause to believe that a person has knowingly committed an act in violation of an injunction for protection entered pursuant to Section 741.30 or Section 784.046, Florida Statutes, which creates a threat of imminent danger to the petitioner or household members, over the objection of the petitioner, if necessary.
  5. There is probable cause to believe that the person has committed an act of domestic violence or child abuse, and the member reasonably believes that there is danger of additional violence or abuse, unless the alleged person is arrested without delay.
  6. There is probable cause to believe that the person knowingly committed an act of repeated violence in violation of an injunction for protection from repeat violence.
  7. Other violations in Section 901.15, Florida Statutes occur.
- B. Members shall arrest a person with a warrant as prescribed by Section 321.05 and Section 901.15(4), Florida Statutes, and Florida Highway Patrol Policy Manual Section 17.06.06(A)(5)(b).

The method of arresting with a warrant shall be done as prescribed in Section 901.16, Florida Statutes, which states:

“A peace officer making an arrest by a warrant shall inform the person to be arrested of the cause of arrest and that a warrant has been issued, except when the person flees or forcibly resists before the officer has an opportunity to inform him, or when giving the information will imperil the arrest. The officer need not have the warrant in his possession at the time of arrest but on request of the person arrested shall show it to him as soon as practicable.”

- C. When members choose to arrest a violator, no member shall use more control than is necessary to affect the arrest as outlined in Florida Highway Patrol Policy Manual Chapter 10.01, and all restraining/transportation procedures outlined in Florida Highway Patrol Policy Manual Chapter 11.08 shall be adhered to.
- D. Members are required to advise violators of their constitutional rights prior to any custodial questioning or at the beginning of a criminal investigation after a crash investigation. It is strongly suggested to use the Warning of Constitutional Rights card (HSMV 61300) or the Advice of Rights form (HSMV 61060) supplied by the Department for later court testimony. In the event the Warning of

Constitutional Rights card or the Advice of Rights form is not used, a written form with the exact wording shall be used.

Members shall not question or interrogate any violator:

1. If the violator requests an attorney, until that attorney is present.
  2. If the violator chooses to remain silent.
  3. If during questioning or interrogation the violator wishes the questioning or interrogation to cease.
  4. Longer than for reasonable periods of time. Time shall be allowed for personal necessities and rest periods as are reasonably necessary.
- E. All non-traffic criminal arrest offenses shall be reported on the Arrest/Notice to Appear form (HSMV 60005).
- F. A Uniform Traffic Citation (UTC), probable cause statement, and other forms of the local state attorney, sheriff, correction facility, etc., shall accompany the arrested individual to the place of incarceration.
- G. A copy of all arrest documents shall be kept by the member making the arrest for later court testimony or until the final disposition of the case.
- H. A "wanted" status check through NCIC/FCIC and other local networks shall be conducted on all subjects that have been arrested.
- I. Members are required to be familiar with the arrest procedures of the local agencies of the county in which they work.
- J. The role of the Florida Highway Patrol in criminal justice and social service diversion programs is to encourage its members to participate in such programs that may be available in the member's area of assignment.
1. Criminal justice and social service diversion programs are those programs that provide alternatives to arrest and prosecution or lessen the severity of punishment. Such programs may include; Teen Court, Drug Court, Baker Act, Marchman Act and Pre-Trial Intervention.
  2. Each case must be assessed on facts specific to the case and procedures of the agency that oversees the program in determining whether the violator is permitted entry into the program.